

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

GRACE MILES,

Plaintiff,

No. C 08-04275 JSW

v.

ROYCE MAKISHIMA, ET AL.,

Defendants.

**ORDER DENYING REQUEST
FOR STAY, REQUIRING
AMENDED COMPLAINT, AND
VACATING CASE
MANAGEMENT CONFERENCE**

By order dated February 3, 2009, this Court denied Plaintiff Grace Miles' ("Miles") application to proceed *in forma pauperis* and ordered that Miles had failed to file a pleading setting forth the grounds upon which the Court could assess jurisdiction. The original complaint is disjointed to the point of being unintelligible. As a result, the Court required that Miles file an amended complaint by no later than March 6, 2009 and ordered that she pay the filing fee.

On March 6, 2009, instead of an amended complaint, Miles filed a submission entitled "Notice of Filing, Request Auto Stay" based on her filing for bankruptcy protection. Despite her having filed a petition for bankruptcy, this action is not subject to the automatic stay provided by 11 U.S.C. § 362(a) because the action has not been brought against Miles. The automatic stay is not relevant here as Miles is the plaintiff in this matter. *See* 11 U.S.C. § 362(a)(1) (providing bankruptcy petition operates as automatic stay of "action or proceeding against the debtor"). Miles is therefore not entitled to a stay and her request is therefore DENIED.

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2 However, the deadline for filing an amended complaint is long overdue and Miles has
3 failed to pay the court filing fee. Miles shall have until July 17, 2009 to file an amended
4 complaint in compliance Federal Rule of Civil Procedure 8(a) setting out (1) the underlying
5 basis for her suit; (2) the legal theories under which she seeks relief; and (3) what relief she is
6 seeking. In addition, Miles shall have until July 17, 2009 to pay the filing fee of \$350. See
7 28 U.S.C. § 1914(a).

8 In light of this Order, the case management conference set for this Friday, June 26, 2009
9 at 1:30 p.m. is HEREBY VACATED and shall be reset, if necessary, by further order of this
10 Court.

11 Failure to comply with this Order shall result in the **dismissal** of this action for failure to
12 prosecute. There shall be no further extensions of time.

13 **IT IS SO ORDERED.**

14 Dated: June 22, 2009



JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

GRACE MILES,

Plaintiff,

v.

ROYCE MAKISHIMA et al,

Defendant.

Case Number: CV08-04275 JSW


CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on June 22, 2009, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Grace Miles
21 Willow Road, No. 22
Menlo Park, CA 94025

Dated: June 22, 2009


Richard W. Wieking, Clerk
By: Jennifer Ottolini, Deputy Clerk